



Office of the Attorney General

State of Texas

October 2, 1991

DAN MORALES

ATTORNEY GENERAL

Ms. Phoebe Knauer
Director, Information Release
Texas Employment Commission
101 East 15th Street
Austin, Texas 78778-0001

OR91-463

Dear Ms. Knauer:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, article 6252-17a, V.T.C.S. Your request was assigned ID# 13539.

The Texas Employment Commission has received a request for information in its possession pertaining to a certain company. You ask that we determine whether certain items included in the requested information -- an anonymous letter and its attachments -- may be withheld under the "informer's privilege," a branch of the exception to disclosure provided for in section 3(a)(1) of the Open Records Act. The informer's privilege serves to encourage the flow of information to the government by protecting the identities of informants. Contents of such information which tend to reveal an informer's identity also fall within that privilege. Open Records Decision No. 549 (1990).

The letter at issue alleges that the company may have been in violation of laws regarding the payment of unemployment taxes. *See* V.T.C.S. arts. 5221b-1 *et seq.* The violation of these tax laws carries criminal penalties. V.T.C.S. art. 5221b-14. The commission has authority to audit companies for compliance with these tax laws. V.T.C.S. art. 5221b-9.

We think that the anonymous letter you have submitted falls within the category of information protected by the informer's privilege. It reports a possible violation of the law to an administrative agency having a duty to monitor compliance with that law. *See* Open Records Decision No. 549. Though anonymous and typewritten, the letter's contents may well tend to reveal the identity of the author.

The postmarked envelope may also tend to reveal the informer's identity. Both the letter and the envelope may be withheld. The other documents enclosed with the letter would not appear, in themselves, to reveal the informer's identity, and must be released.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please refer to OR91-463.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'William Walker', is written over a horizontal line.

William Walker
Assistant Attorney General
Opinion Committee

WW/mc

Ref.: ID# 13539

Enclosure: Open Records Decision No. 549

cc: Mr. Andy Sims
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